

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and the Chapter 7 Estate
of Bernard L. Madoff,

Plaintiff,

v.

Adv. Pro. No. 10-04492 (CGM)

STUART LEVENTHAL 2001 IRREVOCABLE
TRUST and STUART LEVENTHAL,
individually and in his capacity as trustee of the
Stuart Leventhal 2001 Irrevocable Trust,

Defendants.

**DECLARATION OF NICHOLAS J. CREMONA IN SUPPORT OF
TRUSTEE'S MOTION FOR SUMMARY JUDGMENT**

I, Nicholas J. Cremona, declare the following:

1. I am a Partner with the law firm of Baker & Hostetler LLP, counsel to Irving H.

Picard, as trustee ("Trustee") for the substantively consolidated liquidation of the business of

Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–*III*, and the chapter 7 estate of Bernard L. Madoff. I submit this Declaration in support of the Trustee’s Motion for Summary Judgment.

2. Attached hereto as Exhibit 1 is a true and correct copy of the SEC Form BD for Bernard L. Madoff dated December 31, 1959 (PUBLIC0003607).

3. Attached hereto as Exhibit 2 is a true and correct copy of the Articles of Organization for Bernard L. Madoff Investment Securities LLC dated January 1, 2001.

4. Attached hereto as Exhibit 3 is a true and correct copy of SEC Amended Form BD for Bernard L. Madoff Investment Securities LLC dated January 12, 2001.

5. Attached hereto as Exhibit 4 is a true and correct copy of SEC Form ADV for Bernard L. Madoff Investment Securities LLC dated August 25, 2006 (PUBLIC0003729).

6. Attached hereto as Exhibit 5 is a true and correct copy of BLMIS’s Amended and Restated Operating Agreement dated April 14, 2004 (MADTSS01160350).

7. Attached hereto as Exhibit 6 are true and correct copies of letters from BLMIS to various financial institutions.

8. Attached hereto as Exhibit 7 is a true and correct copy of an exemplar of JPMorgan Chase Bank, N.A. statements for account #xxxxx1703 and account #xxxxxxxxx1509.

9. Attached hereto as Exhibit 8 are true and correct excerpts from the testimony of Frank DiPascali, Jr. during the multi-day criminal trial *United States v. Bonventre*, No. 10-CR-228 (LTS) (S.D.N.Y.), ECF Nos. 858, 862, 884.

10. Attached hereto as Exhibit 9 is a true and correct copy of the Plea Allocution of Bernard L. Madoff, *United States v. Madoff*, No. 09-CR-213 (DC) (S.D.N.Y. Mar. 12, 2009), ECF No. 57.

11. Attached hereto as Exhibit 10 is true and correct copy of the Plea Allocution of Frank DiPascali, Jr., *United States v. DiPascali*, No. 09-CR-764 (RJS) (S.D.N.Y. Aug. 11, 2009), ECF No. 12.

12. Attached hereto as Exhibit 11 is true and correct copy of the Plea Allocution of David L. Kugel, *United States v. Kugel*, No. 10- CR-228 (LTS) (S.D.N.Y. Nov. 21, 2011), ECF No. 188.

13. Attached hereto as Exhibit 12 is a true and correct copy of the Plea Allocution of Irwin Lipkin, *United States v. Irwin Lipkin*, No. 10-CR-228 (LTS) (S.D.N.Y. Nov. 8, 2012), ECF No. 288.

14. Attached hereto as Exhibit 13 is a true and correct copy of the Plea Allocution of Eric S. Lipkin, *United States v. Eric S. Lipkin*, No. 10-CR-228 (LTS) (S.D.N.Y. June 6, 2011), ECF No. 148.

15. Attached hereto as Exhibit 14 is a true and correct copy of the Plea Allocution of Enrica Cotellessa-Pitz, *United States v. Cotellessa-Pitz*, No. 10-CR-228 (LTS) (S.D.N.Y. Dec. 19, 2011), ECF No. 1512.

16. Attached hereto as Exhibit 15 is a true and correct copy of the February 29, 2008 BLMIS Customer Statement for the Leventhal Account (GM000026–GM000027).

17. Attached hereto as Exhibit 16 are true and correct copies of letters addressed to the LLC from Defendants requesting withdrawals from the Leventhal Account:

- Letter addressed to the LLC requesting withdrawal of \$5,000, dated December 8, 2008;
- Letter addressed to the LLC requesting withdrawal of \$35,000, dated August 11, 2008;
- Letter addressed to the LLC requesting withdrawal of \$70,000, dated June 3, 2008;

- Letter addressed to the LLC requesting withdrawal of \$25,000, dated April 8, 2008;
- Letter addressed to the LLC requesting withdrawal of \$125,000, dated January 28, 2008;
- Letter addressed to the LLC requesting withdrawal of \$60,000, dated January 2, 2008;
- Letter addressed to the LLC requesting withdrawal of \$75,000, dated November 27, 2007;
- Letter addressed to the LLC requesting withdrawal of \$150,000, dated October 1, 2007;
- Letter addressed to the LLC requesting withdrawal of \$100,000, dated August 15, 2007;
- Letter addressed to the LLC requesting withdrawal of \$100,000, dated July 18, 2007;
- Letter addressed to the LLC requesting withdrawal of \$150,000, dated May 30, 2007;
- Letter addressed to the LLC requesting withdrawal of \$200,000, dated April 9, 2007;
- Letter addressed to the LLC requesting withdrawal of \$50,000, dated February 21, 2007;
- Letter addressed to the LLC requesting withdrawal of \$150,000, dated December 11, 2006;
- Letter addressed to the LLC requesting withdrawal of \$150,000, dated November 9, 2006;
- Letter addressed to the LLC requesting withdrawal of \$150,000, dated September 13, 2006;
- Letter addressed to the LLC requesting withdrawal of \$150,000, dated August 10, 2006;
- Letter addressed to the LLC requesting withdrawal of \$500,000, dated May 5, 2006;
- Letter addressed to the LLC requesting withdrawal of \$100,000, dated April 6, 2006;

- Letter addressed to the LLC requesting withdrawal of \$100,000, dated February 8, 2006;
- Letter addressed to the LLC requesting withdrawal of \$100,000, dated December 6, 2005;
- Letter addressed to the LLC requesting withdrawal of \$100,000, dated October 31, 2005; and
- Letter addressed to the LLC requesting withdrawal of \$500,000, dated May 10, 2005.

18. Attached hereto as Exhibit 17 is a true and correct copy of the BLMIS

Verification of Address Change for the Leventhal Account, dated April 29, 2005
(AMF00279371).

19. Attached hereto as Exhibit 18 are true and correct copies of the Defendants' discovery responses and Trustee's request for admission:

- Defendants' Responses to Plaintiff's Interrogatories, dated February 22, 2012;
- Defendant Stuart Leventhal 2001 Irrevocable Trust's Response to Plaintiff's Requests for Admission, dated May 28, 2015; and
- Trustee's First Set of Requests for Admission to Defendant Stuart Leventhal 2001 Irrevocable Trust, dated April 10, 2015.

20. Attached hereto as Exhibit 19 is a true and correct copy of the Tr. of Oral Arg. at 114:10–11, *Picard v. Marilyn Bernfeld Tr.*, Adv. Pro. No. 10-05143 (SMB) (Bankr. S.D.N.Y. Oct. 28, 2015) and Tr. of Oral Argument at 100:19, *Picard v. Mendelow*, Adv. Pro. No. 10-04283 (SMB) (Bankr. S.D.N.Y. Oct. 28, 2015).

21. Attached hereto as Exhibit 20 is a true and correct copy of the Trial Tr. at 389:4–16, *Picard v. RAR Entrepreneurial Fund, Ltd.*, No. 20-cv-01029 (S.D.N.Y. Mar. 7, 2022), ECF No. 137.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing statements are true and correct.

Dated: May 25, 2022
New York, New York

Respectfully submitted,
BAKER & HOSTETLER LLP

By: /s/ Nicholas J. Cremona
Nicholas J. Cremona